

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Common Carrier Bureau
Network Service Division
Office of the Chief
File No. NSD-L-99-21

In the Matter of

Petition of the New York Department of Public Service for
Additional Authority to Implement Number Conservation
Measures

In the Matter of

Petition of the Massachusetts Department of
Telecommunications and Energy for Additional Authority to
Implement Various Area Code Conservation Methods in the
508, 617, 781, and 978 Area Codes

APR 12 1999

FCC

File No. NSD-L-99-19

CC DOCKET 96-98

COMMENTS OF SBC COMMUNICATIONS INC.

SBC Communications Inc. ("SBC") opposes the petitions of the New York Public Service Commission ("NYPSC") and the Massachusetts Department of Telecommunications and Energy ("MDTE") for delegation of additional authority over numbering administration in their respective states. These petitions are nothing other than an untimely requests to overturn the Commission's Pennsylvania Numbering Order.¹ Granting the petitions would undermine the Commission's efforts to create a uniform national policy that ensures sufficient numbering resources for all carriers, and it almost certainly would not eliminate the need for area code relief in New York and Massachusetts. The Commission should deny the petitions.

SBC recognizes that many states are currently experiencing a high level of demand for central office ("CO") codes and exhaust of existing area codes, which in turn requires state

¹ See Memorandum Opinion and Order and Order on Reconsideration, *Request for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission*

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commissions to make some difficult decisions regarding area code relief – sometimes making multiple decisions affecting the same metropolitan area within just a few years. However, these decisions must be made and the new area codes implemented in a timely fashion if the Commission is to ensure a sufficient supply of numbering resources for all carriers nationwide. To ensure that new area codes are implemented in a timely fashion, the Commission in its Pennsylvania Numbering Order reminded state commissions that number conservation and area code relief are different things, and it counseled state commissions to recognize the difference and to implement area code relief when necessary.²

However, avoiding area code relief is precisely the point of the Massachusetts and New York petitions: the petitions acknowledge that they want additional delegated authority precisely to avoid having to make area code relief decisions.³ The only proper response to such requests is a denial and a reaffirmation that area code relief and number conservation are different things, and NYPSC and MDTE need to focus their efforts on making area code relief decisions in a timely and effective manner, as such decisions appear necessary at this time in New York and Massachusetts.

The irony of the situation is that even the authority requested by NYPSC and MDTE would very likely not avoid the need to relieve area codes. As the Commission noted in the Pennsylvania Numbering Order, conservation measures are more effective when an area code has free resources, not when an area code is approaching exhaust.⁴ As the Illinois Commerce Commission

Regarding Area Codes 412, 610, 215, and 717, NSD File No. L-97-42, CC Docket No. 96-98 [FCC 98-224] (released Sept. 28, 1998) [Pennsylvania Numbering Order].

² Pennsylvania Numbering Order, at ¶¶ 22 & 26. It is essential that states make area code relief decisions in a timely manner to avoid creating rationing and shortages of telephone numbers, thereby threatening the Commission's policy to ensure that there is a sufficient supply of numbering resources available for all carriers.

³ Massachusetts Department of Telecommunications And Energy's Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781, and 978 Area Codes, at 4-5 (filed Feb. 17, 1999) (requesting authority to "mitigate the need for new area codes") [*MDTE Pet.*]; New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures, at 5 & n.10 (filed Feb. 19, 1999) [*NYPSC Pet.*].

⁴ Pennsylvania Numbering Order, at ¶ 29.

discovered with its pooling trial in the 847 area code in Illinois, pooling is not a panacea that magically eliminates the need for area code relief.⁵ Instead, it is likely to cause state commission (the petitioners here and those that can be expected to follow in their footsteps, if these requests are granted) to focus their efforts on how to avoid making area code relief decisions and further exacerbate numbering shortages throughout the nation.

The fact that both petitions request a wide range of authority over number administration underscore how far the NYPSC and MDTE deviate from the Commission's national numbering policies.⁶ These requests are nothing short than a frontal assault on the Commission's attempt to create and enforce uniform national numbering policies, as set forth in the Local Interconnection Second Report & Order and the Pennsylvania Numbering Order. These issues should have been raised and considered in the reconsideration of those decisions, not as "waiver" requests. There appears to be nothing unique about the situation in New York or Massachusetts to justify a "waiver" of the Commission's rules – what they really seek is an "exception" from them, and the exception they seek would truly swallow the rule.⁷ If additional authority is delegated to New York

⁵ See Direct Testimony of Brian Baldwin, Ameritech Illinois, at 6. Petition for Approval of NPA Relief for the 312, 630, 708, and 773 NPAs (filed April 1, 1999) ("it should be understood, as well, that pooling in and of itself will not provide sufficient relief to those NPAs facing a jeopardy situation") (discussing the extension of the Illinois number pooling trial from the 847 NPA to other Illinois NPAs).

⁶ Both petitions seek broad authority for the state commissions over numbering assignment and administration functions. Massachusetts requests authority to reclaim reserved and unused codes, to engage in more extensive code rationing (and make exceptions to rationing), to set "code allocation" standards, order inconsistent rate centers and extended local calling areas. *MDTE Pet.*, at 4. New York seeks authority to set mandatory "fill" percentages for code assignment, to engage in more extensive code rationing, to reclaim codes, to compel carriers to comply with utilization audits, and to enforce and audit administration standards. *NYPSC Pet.*, at 11-17. Those measures, to the extent that they have any potential for increasing "conservation" or numbering resource utilization, are part of proceedings on the North American Numbering Council Report regarding Numbering Resource Optimization ("NRO Report"), and are pending before the Commission at this time (in NSD File No. L-98-134). Others – such as the requests to extend rationing and to restrict the supply of NXX codes (particularly *MDTE's* wholly unjustified request to extend rationing six months after implementing relief) – are clearly not conservation measures at all, and should not be authorized under any circumstances.

⁷ The only thing that the state commissions suggest give rise to these petitions is the fact that they are exhausting area codes. See, e.g., *MDTE*, at 1-2; *NYPSC*, at 4.

and Massachusetts over these number administration functions, there would appear to be no reason why the same authority should not be delegated to any state commission confront area code exhaust issues. As such, the request for delegation of such authority is nothing other than an improper "second bite at the apple" at its attempt to overturn the Pennsylvania Numbering Order, and they should be denied summarily.⁸

The requests for authority to order number pooling fare no better, again in large part because they start from a premise that is contrary to the Commission's national numbering policies – trying to use conservation measures to substitute for area code relief. In the Pennsylvania Numbering Order, the Commission suggested that it would be interested delegating authority to states that have "additional ideas for *innovating number conservation measures that this Commission has not addressed*."⁹ The Commission also encouraged states to work with NANC to develop their proposal, and suggested that it would seek NANC input before making any such delegation of authority, underscoring the fact that such delegations of authority would be for truly novel and innovative solutions, not merely the same alternatives already reviewed by NANC in the NRO Report and recommended to the Commission.

However, the NYPSC and MDTE requests for authority to order number pooling are not novel in any way – they are merely the same pooling options addressed in the NANC NRO Report. Granting these states authority to conduct pooling trials, then, would only guarantee "multiple, inconsistent pooling trials throughout the country" – precisely what the Commission stated it was

⁸ Considering the merits of these requests could invite a plethora of such waiver requests in the future. Any party disappointed with a Commission decision could seek a waiver instead of, or in addition to, seeking reconsideration, and could use waiver requests as a means to "cure" defects in reconsideration petitions (such as failing to seek reconsideration of specific issues) or otherwise as a means to get around the deadline for reconsideration (or to press the Commission for action on a pending reconsideration proceeding).

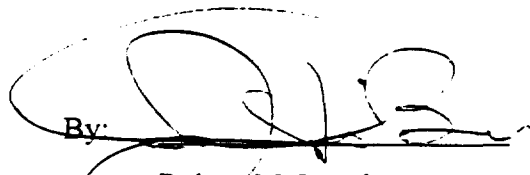
⁹ Pennsylvania Numbering Order, at ¶ 31 (emphasis added).

attempting to avoid in the Pennsylvania Numbering Order. The requests for authority to order mandatory pooling trials must be denied.¹⁰

SBC recognizes that the area-code relief decisions that are confronting MDTE and the NYPSC are not easy ones. While it is convenient to look for ways to avoid difficult decisions, sometimes the difficult decisions must be made. Such appears to be the case in New York and Massachusetts today. If the Commission is to continue its efforts to maintain a consistent national policy requiring sufficient numbering resources should be available all carriers, then it should deny these petitions.

Respectfully submitted.

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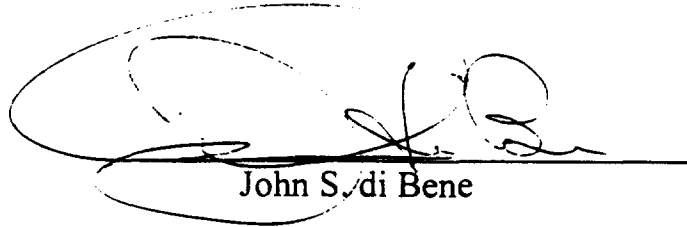
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Date: April 5, 1999.

¹⁰ Of course, this means that NYPSC's request for authority to order individual telephone number pooling and unassigned number porting should be denied. The NANC did not recommend these options as potential pooling options, and, as SBC explained in its comments on the NANC NRO Report, neither of these "options" are justified by the extremely high cost and low appreciable increase in utilization. See Comments of SBC Communications Inc., at 15-21, NSD File No. L-98-134 (filed Dec. 21, 1998). Thus, these options should even be considered at this time. Even if the Commission chooses to grant some authority to NYPSC or to MDTE, it is essential that the Commission make clear that it will not permit any further number pooling trials. Otherwise, other state commissions are likely to focus their time and effort on attempting to secure authority from the Commission to perform pooling trials with different and potentially conflicting requirements rather than implementing needed area code relief.

CERTIFICATE OF SERVICE

I, John S. di Bene, do hereby certify that copies of the Comments of SBC Communications Inc. were served by first class United States Mail, postage prepaid, upon the parties appearing on the attached service list this 5th day of April, 1999.



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